

REMARKS

Claims 12-22, 76- and 65-82 are currently pending in the application. Applicants have canceled claims 35-64, amended claim 76, and added new claims 83-87. Applicants request reconsideration of the application in light of the following remarks.

Double Patenting Rejection

Claims 1-11 stand rejected for double patenting of the "same invention" type under 35 U.S.C. §101 as being unpatentable over claims 7, 8, 14, 17, 18, 19, 20, 21, 13, and 16 of U.S. Patent No. 6,286,005. Applicant has canceled claims 1-11 from the present application thus obviating this rejection.

Claims 12 and 15 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9 and 7 of U.S. Patent No. 6,286,005 unless a terminal disclaimer is filed. Dependent claims 13, 14 and 16-22 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 20, 14, 7, 8, 14, 17, 21, and 13 of U.S. Patent No. 6,286,005. In order to avoid further expenses and time delay, Applicants elect to expedite the prosecution of the present application by filing a terminal disclaimer to obviate the double patenting rejections in compliance with 37 CFR §1.321 (b) and (c). Applicants' filing of the terminal disclaimer should not be construed as acquiescence of the Examiner's double patenting or obviousness-type double patenting rejections. Attached is the terminal disclaimer and accompanying fee.

Rejections under 35 U.S.C. §102

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claims 23-34, 65-79 and 81 were rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by Applicant admitted prior art ("Related Art"). Claims 23-34 and 65-75 have been canceled without traverse to obtain immediate allowance of the allowable subject matter. The rejection of these claims is, therefore, obviated. Claim 76 has been amended to include the allowable subject matter of claim 80 and is, therefore, allowable. Claims 77-79 and 81 each depend from allowable claim 76. Applicants respectfully request that the anticipation rejections of claims 76-79 and 81 be withdrawn.

Indication of Allowable Subject Matter

The Examiner objected to claims 80 and 82 as being dependent upon a rejected base claim, but indicated these claims would be allowable if rewritten in independent form. Applicants wish to thank the Examiner for this indication of allowable subject matter. Independent claim 76 has been rewritten to include the elements of claim 80 and all intervening claims. New claim 83 includes the elements of claim 82 and all intervening claims. Claims 76 and 83, and all claims depending therefrom, are therefore allowable. Canceled or rejected claims have been canceled herein in favor of a continuation application which will pursue these claims further.

CONCLUSION

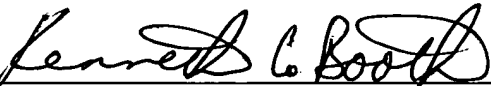
Applicants hereby declare that any amendments herein that are not specifically made for the purpose of patentability are made for other purposes, such as clarification, and that no such changes shall be construed as limiting the scope of the claims or the application of the Doctrine of Equivalents.

It is requested that a 1-month extension of time be granted for the filing of this response, and the appropriate extension filing fee of \$55.00 is enclosed herewith.

If any fees, including extension of time fees or additional claims fees, are due as a result of this response, please charge Deposit Account No. 19-0513. This authorization is intended to act as a constructive petition for an extension of time, should an extension of time be needed as a result of this response. The examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

Date: November 18, 2002

By 
Kenneth C. Booth
Reg. No. 42,342

SCHMEISER, OLSEN & WATTS LLP
18 East University Drive, #101
Mesa, AZ 85201
(480) 655-0073

VERSION WITH MARKINGS TO SHOW CHANGES MADE

Claims 1-11. Canceled.

Claim 12. (Unchanged) A computer system for optimizing an advertising schedule, the computer system comprising:

a CPU;

a memory coupled to the CPU;

a database residing in the memory, the database containing a plurality of person-by-person data files, the plurality of person-by-person data;

a database mining engine residing in the memory;

a data conversion mechanism residing in the memory, the data conversion mechanism comprising a mechanism for converting data from a first data format to a second data format; and

a graphical user interface residing in the memory and being executed by the CPU, wherein the graphical user interface provides a plurality of choices for optimizing the advertising schedule according to a plurality of indices.

Claim 13. (Unchanged) The computer system of claim 12 wherein the first data format is a plurality of television viewing records received from A.C. Nielsen and the second data format is a binary representation of the plurality of television viewing records.

Claim 14. (Unchanged) The computer system of claim 12 wherein the plurality of indices includes an exposure valuation index, an audience valuation index, an exposure recency index, a response index and a cost index.

- Claim 15. (Unchanged) A program product comprising:
an advertising optimization mechanism, the advertising optimization mechanism
iteratively modifying a base advertising schedule to achieve an optimal
advertising schedule; and
signal bearing media bearing the advertising optimization mechanism.
- Claim 16. (Unchanged) The program product of claim 16 wherein the signal bearing media
comprises transmission media.
- Claim 17. (Unchanged) The program product of claim 16 wherein the signal bearing media
comprises recordable media.
- Claim 18. (Unchanged) The program product of claim 16 further comprising a plurality of
indices which are utilized by the advertising optimization mechanism to iteratively
modify the base advertising schedule.
- Claim 19. (Unchanged) The program product of claim 18 wherein the plurality of indices
comprises an exposure valuation index, an audience valuation index, an exposure
recency index, a response index and a cost index.
- Claim 20. (Unchanged) The program product of claim 15 further comprising a data
conversion mechanism, the data conversion mechanism comprising a mechanism for
converting data from a first data format to a second data format.
- Claim 21. (Unchanged) The program product of claim 20 wherein the first data format is a
plurality of television viewing records received from A.C. Nielsen and the second data
format is a plurality of variable length records which describe changes in media-related
access data for a target audience.

Claim 22. (Unchanged) The program product of claim 20 wherein the first data format is a plurality of television viewing records received from A.C. Nielsen and the second data format is a binary representation of the plurality of television viewing records.

Claims 23-75. Canceled

Claim 76. (Amended) A method of calculating a score for an advertising spot, the method comprising the steps of:

determining a separate value for each exposure of each of a plurality of audience members to the advertising spot using the formula

$$S_b(a) = \sum_{i=1}^{N_a} \left[V_I^n(i) \times \prod_{d=1}^D V_A^d(i) \right] \times V_T(a) \times V_R(a) \div V_C(a) \quad ; \text{ and}$$

summing the exposure values for each of the plurality of audience members to calculate the score for the advertising spot.

Claim 77. (Unchanged) The method of claim 76 wherein the step of determining a value for each exposure of each of a plurality of audience members to the advertising spot comprises the step of a using a weighted effective frequency method to determine a value for exposing each of a plurality of audience members to the advertising spot.

Claim 78. (Unchanged) The method of claim 76 wherein the step of determining a value for each exposure of each of a plurality of audience members to the advertising spot comprises the step of a using a time weighted effective frequency method to determine a value for exposing each of a plurality of audience members to the advertising spot.

Claims 79-80. Canceled.

Claim 81. (Unchanged) The method of claim 76 wherein the step of summing the exposure values for each of the plurality of audience members to calculate the score for the advertising spot comprises the step of using a using predetermined formula to sum the exposure values for each of the plurality of audience members.

Claim 82. (Unchanged) The method of claim 81 wherein the step of the step of using a using predetermined formula to sum the exposure values for each of the plurality of audience members comprises the step of using the formula

$$\sum_{i=1}^N \left[V_I^n(i) \times \prod_{d=1}^D V_A^d(i) \right]$$

to sum the exposure values for each of the plurality of audience members.

Please add the following New Claims:

Claim 83. (New) A method of calculating a score for an advertising spot, the method comprising the steps of:

- determining a separate value for each exposure of each of a plurality of audience members to the advertising spot; and
- summing the exposure values for each of the plurality of audience members to calculate the score for the advertising spot using the formula

$$\sum_{i=1}^N \left[V_I^n(i) \times \prod_{d=1}^D V_A^d(i) \right]$$

Claim 84. (New) The method of claim 83 wherein the step of determining a value for each exposure of each of a plurality of audience members to the advertising spot comprises

the step of a using a weighted effective frequency method to determine a value for exposing each of a plurality of audience members to the advertising spot.

Claim 85. (New) The method of claim 83 wherein the step of determining a value for each exposure of each of a plurality of audience members to the advertising spot comprises the step of a using a time weighted effective frequency method to determine a value for exposing each of a plurality of audience members to the advertising spot.

Claims 86. (New) The method of claim 83 wherein the step of determining a value for each exposure of each of a plurality of audience members to the advertising spot comprises the step of a using predetermined formula to determine a value for each exposure of each of a plurality of audience members to the advertising spot.

Claim 87. (New) The method of claim 86 wherein the step of a using predetermined formula to determine a value for each exposure of each of a plurality of audience members to the advertising spot comprises the step of using the formula

$$S_b(a) = \sum_{i=1}^{N_a} \left[V_f^n(i) \times \prod_{d=1}^D V_A^d(i) \right] \times V_T(a) \times V_R(a) \div V_C(a)$$

to determine a value for each exposure of each of a plurality of audience members to the advertising spot.